1952

File No. L.R.C.Bom. II/52(R)

Legal Department

B **BRANCH**

Subject:— Rules under the Bombay Land Revenue Code, 1879.

File No. L.R.C.Bom. II/52 (R)

Legal Department.

A revised draft notification is sent herewith.

2 Grants of lands to displaced persons are governed by special statutory provisions contained in rule 43.-C of the Land Revenue Rules. The condition regarding inalienability of lands prescribed in Government Resolution, Revenue Department No. 1970/45, dated the 17th October 1947 would not apply to the grant of land to the displaced persons and they would be solely governed by rule 43C as proposed to be amended. The view taken by Revenue Department on this point is, therefore, correct.

Id/-J.R.D. 23/5
Additional Secretary to Government.

U.R. to R.H.D. No. 8755 ,dated the 26th May 1952.

BKS. 28/6/ 4c.

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Legal Department.

It does not appear necessaryto specifically amend Form E by amending the Land Revenue Rules. According to rule 35(3) of the said Rules, it is permissible to vary the contents of the Form according to the circumstances of each case. Form E can, therefore, be used with suitable modification.s.

Id/-
21/7

Deputy
Additional Secretary to Government.

U.R. to R.D.,No. 12053, dated the 22nd July 1952.

BKS. 28/6/ 4c.

Legal Department.

A revised draft in place of the Revenue Department draft at page 141 ante is sent herewith.

2. Clause (b) of Revenue Department draft has been transferred as clause (b) of sub-rule (1) of the proposed rule 86 in the revised draft, with the result that the provisions of sub-rules (2) and (3) of the Revenue Department draft regarding intimation of use and failure to do so would apply in the case of sites put to non-agricultural uses by Cooperative Housing Societies also. Revenue Department is requested to verify if the revised draft is suitable.

3. Since the liability of Cooperative Housing Socieites to pay non-agricultural assessment is materially changed under the revised draft rule, fresh publication is absolutely necessary.

Id/-
12/9
Additional Secretary to Government.

U.R. to R.D. No. ~~1~~ 14989/B, dated the 13th September 1952.

BKS. 28/6/ 4c.

Legal Department.

The draft supplied by the Additional Secretary, Legal Department under U.R.No.8755 dated 26th May 1952 is legally in order. The Revenue Department in its note at 'A' on page 29 states that the intention is to impose restriction on alienation irrespective of the fact whether land has been sold by action or by private negotiations. The Legal Department draft provides that the restriction on alienation of the land would apply in cases where lands are sold otherwise than by auction for the reasons stated in the Additional Secretary, Legal Department's opinion No.13373 dated the 20th September 1950, namely that a person to whom permission to occupy land had been granted would acquire, a hereditory and transferable right in the land. It was then observed that only in cases where unoccupied land is being granted on concessional terms, that it would be legal to provide that the land was unalienable without the sanction of Government. The Revenue Department has made a statement at 'X' on page 8 ante that rule 43C of the Bombay Land Revenue Rules (which regulates the sale or lease of land to displaced persons) provides that lands may be sold to them either by auction or by private arrangement. It is further stated by Revenue Department at 'X' on page 8 that sale without auction or at a concession occupancy price amounts to concession" etc. The Secretary, Rehabilitation Department in his marginal note at page 15 has himself expressed the doubt how far it would be legal to impose such restriction if the full cost is paid. As pointed out in the Legal Department opinion No.13373, dated the 20th September 1950 referred to above, it is where land is sold on concessional terms that the condition restricting alienationcan be imposed. It is clear from this opinion that if the land is sold by auction no restrictionon its alienation can be imposed. The draft supplied is therefore legally in order.

Id/-J.R.D. 8/10
Additional Secretary to Government.

U.R. to R.H.D. 16650/B, dated the 9th October 1952.

BKS. 28/6/ 4c.